



**Office of the Attorney General  
State of Texas**

**DAN MORALES**  
ATTORNEY GENERAL

October 12, 1992

Honorable David P. Weeks  
Criminal District Attorney  
Walker County  
P. O. Box 1659  
Huntsville, Texas 77342

Letter Opinion No. 92-67

Re: Whether, in cases in which law enforcement agency other than the sheriff's department obtains a pre-indictment warrant for arrest of an individual who is then arrested in another county, the duty to bring the prisoner back to the county issuing the warrant rests on the sheriff's department or the law enforcement agency that obtained the warrant (RQ-197)

Dear Mr. Weeks:

You have requested our opinion regarding which governmental entity is responsible for transporting a defendant who has been arrested in a distant county back to the county in which the arrest warrant was issued.

You indicate that the police department of the City of Huntsville obtained from a justice of the peace in Walker County an arrest warrant for an individual charged with the offense of unauthorized use of a motor vehicle. The individual was subsequently arrested in Swisher County. A dispute has arisen between the police department and the Walker County Sheriff as to which of them is charged with the duty of transporting the arrestee from Swisher County to Walker County.

Article 15.18 of the Code of Criminal Procedure provides:

One arrested under a warrant issued in a county other than the one in which the person is arrested shall be taken before a magistrate of the county where the arrest takes place who shall take bail, if allowed by law, and immediately transmit the bond taken to the court having jurisdiction of the offense.

Article 15.19 of the Code of Criminal Procedure provides:

(a) If the accused fails or refuses to give bail, as provided in the preceding Article, he shall be committed to the jail of the county where he was arrested; and *the magistrate committing him shall immediately notify the sheriff of the county in which the offense is alleged to have been committed of the arrest and commitment*, which notice may be given by telegraph, by mail or by other written notice.

(b) If a person is arrested and taken before a magistrate in a county bordering the county in which the arrest is made under the provisions of Article 15.17(a) of this code and if the person is remanded to custody, the person may be confined in a jail in the county in which the magistrate serves for a period of not more than 72 hours after the arrest before being transferred to the county jail of the county in which the arrest occurred. [Emphasis added.]

Article 15.20 of the Code of Criminal Procedure declares:

The sheriff receiving the notice shall forthwith go or send for the prisoner and have him brought before the proper court or magistrate.

Finally, article 15.21 states:

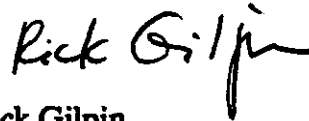
If the proper officer of the county where the offense is alleged to have been committed does not demand the prisoner and take charge of him within ten days from the day he is committed, such prisoner shall be discharged from custody.

Article 15.19 clearly requires the magistrate in the county of arrest to "notify the sheriff of the county in which the offense is alleged to have been committed." Article 15.20 then directs "[t]he sheriff receiving the notice" to "forthwith go or send for the prisoner and have him brought before the proper court or magistrate." If the sheriff does not arrange for the transport of the prisoner within ten days from the date of commitment, the prisoner must be discharged. In conclusion, it is our opinion that the sheriff of the county in which an arrest warrant is issued is responsible for transporting back to the originating county a person who has been arrested in a distant county.

**S U M M A R Y**

When an arrest warrant is issued for an individual alleged to have committed an offense in county A, and the individual is arrested in county B, the sheriff of county A has the duty to arrange the transport of the individual back to county A.

Yours very truly,

A handwritten signature in black ink that reads "Rick Gilpin". The signature is written in a cursive, slightly slanted style.

Rick Gilpin  
Assistant Attorney General  
Opinion Committee